



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 7, 2003

Ms. Margo M. Kaiser
Supervising Attorney
Texas Workforce Commission
101 E. 15th Street
Austin, Texas 78778-0001

OR2003-7076

Dear Ms. Kaiser:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 188989.

The Texas Workforce Commission ("TWC") received a request for documents relating to: (1) communications between TWC and the Central Texas Workforce Center approving contracts between the Central Texas Workforce Center and any entity operating a career center; (2) communications between TWC and the Heart of Texas Workforce Development Board approving contracts between the Heart of Texas Workforce Development Board and any entity operating a career center; (3) communications between TWC and Workforce Texoma approving contracts between Workforce Texoma and any entity operating a career center; (4) communications between TWC and any person, other than representatives of the Capital Area Workforce Development Board, regarding the use of a professional employer organization by a workforce development board; and (5) communications between TWC and any legislator or legislative staff regarding Senate Bill 280 from the regular session of the Seventy-Eighth Legislature. You state that TWC subsequently sought and obtained a clarification of this request from the requestor. You claim that information responsive to category five of the request is excepted from disclosure under section 552.106 of the Government Code.¹ We have also received arguments for the release of the information at issue from the requestor. *See* Gov't Code § 552.304. We have considered all of the submitted arguments and reviewed the submitted information.

¹Because you seek to withhold only a portion of the requested information, we assume you have released the remainder of the requested information, to the extent it exists. If you have not, you must do so at this time. *See* Gov't Code § 552.021, .221, .301, .302.

Section 552.106 of the Government Code excepts from required public disclosure “[a] draft or working paper involved in the preparation of proposed legislation[.]” Gov’t Code § 552.106(a). Section 552.106(a) ordinarily applies only to persons with a responsibility to prepare information and proposals for a legislative body. *See* Open Records Decision No. 460 at 1 (1987). The purpose of this exception is to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the members of the legislative body; therefore, section 552.106 encompasses only policy judgments, recommendations, and proposals involved in the preparation of proposed legislation and does not except purely factual information from public disclosure. *Id.* at 2. However, a comparison or analysis of factual information prepared to support proposed legislation is within the ambit of section 552.106. *Id.*

After reviewing the submitted records, we find that some of the information was prepared in response to legislative inquiries and reflects policy judgments, recommendations, and proposals regarding proposed legislation affecting the policy mission of TWC. TWC may withhold this information, which we have marked, under section 552.106. *See* Open Records Decision No. 367 at 2 (1983) (recommendations of executive committee of Texas State Board of Public Accountancy regarding possible amendment of Public Accountancy Act excepted under section 552.106). The remainder of the submitted information consists of purely factual information, and must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body

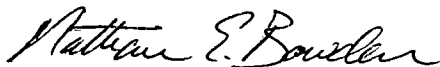
fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Nathan E. Bowden
Assistant Attorney General
Open Records Division

NEB/lmt

Ref: ID# 188989

Enc: Submitted documents

c: Ms. Susan D. Gusky
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(w/o enclosures)